

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DANIEL NAJERA,

Plaintiff,

v.

No. 21-cv-0804 KG-KBM

NEW MEXICO STATE FINANCE BOARD, *et al*,

Defendants.

ORDER OF DISMISSAL


This matter is before the Court following Plaintiff's failure to prosecute his *pro se* prisoner civil action. Plaintiff is detained at the Cibola County Correctional Institution. Pursuant to 28 U.S.C. § 1915, the Court directed him to prepay the \$402 civil filing fee, or alternatively, file a motion to proceed *in forma pauperis* along with a six-month account statement. (Doc. 2). Plaintiff filed the motion but did not attach the required statement. (Doc. 3). The Court entered a second Order directing him to cure the deficiency by October 18, 2021. (Doc. 4). Both Orders warned that the failure to timely comply will result in dismissal of this case without further notice.

Plaintiff failed to submit an inmate account statement or respond to the second Order. Accordingly, the Court will dismiss this action without prejudice pursuant to Fed. R. Civ. P. 41(b). That rule permits dismissals for "failure to prosecute [and] comply with the ... court's orders." *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003). *See also Salazar v. Arapahoe Cty. Det. Facility*, 787 Fed. App'x 542, 543 (10th Cir. 2019) (affirming dismissal where "none of [plaintiff's] letters addressed the inmate account statement or explained his failure to comply with the ordered deadline"); *Sheptin v. Corr. Healthcare Mgmt. Contractor*

Co., 288 Fed. App'x 538, 540-41 (10th Cir. 2008) (“district court did not abuse its discretion by dismissing [Plaintiff’s] action without prejudice based upon his failure to comply with ... order to submit his ... six-month account statement”). The Court will also deny as moot the pending *in forma pauperis* motion.

IT IS ORDERED:

1. Plaintiff Daniel Najera’s Civil Complaint (Doc. 1) is dismissed without prejudice.
2. The Motion to Proceed *In Forma Pauperis* (Doc. 3) is denied as moot.
3. The Court will enter a separate judgment closing the civil case.


UNITED STATES DISTRICT JUDGE